

Decision 04-01-017 January 8, 2004

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the Santa Clara Valley Transportation Authority for an Order approving construction of a rail to rail crossing south of Auzerais Avenue (82D-4.2T), at the junction of the Union Pacific Railroad freight railroad spur line with the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara.

Application 02-03-008  
(Filed March 8, 2002;  
Amended Application  
filed September 6, 2003)

**O P I N I O N**

**Summary**

This decision grants Santa Clara Valley Transportation Authority's (VTA) request for authority to construct a rail-to-rail crossing south of Auzerais Avenue (California Public Utilities Commission (CPUC) Crossing 82D-4.2T). The rail-to-rail crossing will junction the Union Pacific Railroad Company (UP) freight railroad spur line with the light rail transit (LRT) line of the Vasona Light Rail Project in the City of San Jose, Santa Clara County.

**Discussion**

The Vasona Light Rail Project is a 5.3-mile extension originating in downtown San Jose and currently ending in Campbell. The extension includes 35 new at-grade highway-light rail crossings and one at-grade freight rail-light rail crossing, the subject of this decision.

This application, as amended, and the order herein are sought under Sections 1201-1205 of the Public Utilities Code.

The Santa Clara County Board of Supervisors created VTA as a County department on June 6, 1972 to oversee the region's transportation system. VTA's primary responsibility since its creation has been the development, operation and maintenance of the bus and light rail system within the County. VTA separated from the County of Santa Clara and merged with the region's Congestion Management Agency in January 1995; it thereby gained the additional responsibility of managing the County's blueprint to reduce congestion and improve air quality.

The Vasona Light Rail Project will be an extension to the existing 28.6-mile VTA light rail system (see Appendix A). The alignment of the proposed Vasona Corridor extends from downtown San Jose to the Vasona Junction in City of Los Gatos. The northerly terminus of the alignment is at the intersection of West San Carlos Street and Woz Way in downtown San Jose, where the Vasona line connects to the existing Guadalupe Corridor line. From this point, the alignment extends to the west along San Carlos Street to Delmas Avenue, passing under State Route 87. The line extends north along the east side of Delmas Avenue to San Fernando Street, at which point the alignment turns west again. The line continues to the San Jose/Diridon Station on an alignment to the north of San Fernando Street, crossing Los Gatos Creek on a proposed new bridge. The segment west of Autumn Street, including the location where the line crosses the existing UP and Peninsula Corridor Joint Powers Board's (Caltrain) Diridon Yard tracks, is underground. After crossing under the yard tracks at the San Jose/Diridon Station, the alignment returns to the surface and heads in a southerly direction along the west side of the Diridon Yard tracks. From a point

just south of Park Avenue, the proposed alignment utilizes the existing Vasona railroad corridor. The project remains within the railroad corridor all the way to the Winchester Station in Campbell. Eventually the line will be extended to Vasona Junction in the City of Los Gatos. Existing freight rail service in this corridor will continue unchanged, although the existing single track will be relocated in many areas to allow for construction of the light rail tracks.

The proposed project is expected to be funded in three phases. Phase 1 constructs the portion of the project from downtown San Jose to the Downtown Campbell Station. Phase 2 extends the LRT line from the Downtown Campbell Station to the Winchester Station. Phase 3 extends the LRT line from the Winchester Station to the Vasona Junction Station in Los Gatos.

The proposed UP spur track is to be built at-grade. The main justification for an at-grade crossing is that the UP freight trains will be traveling at a very low speed, less than five mph due to the close proximity of an electric lock switch just prior to the crossing that requires all trains to stop before proceeding, and will be providing minimal service over the crossing, typically four trains a week. In addition to the minimal service and slow train speeds, a grade separation would be impracticable to construct due to the narrow width of the right-of-way. Safety shall be provided by a manually controlled and signaled electric lock placed on the UP freight line a sufficient distance in advance of the at-grade rail-to-rail crossing. Operation of UP trains through the crossing shall require that, in the presence of a VTA supervisor, UP requests permission to open the electric lock from the VTA operations control center. Once permission is received and the switch is unlocked, signals affecting VTA train movement through the crossing shall display a "stop" indication, which will result in southbound VTA light rail trains being held at San Jose/Diridon Station and northbound trains

being held at Race Street Station. Light rail operations past the crossings home signals shall be suspended until the UP operations are completely clear of the crossing, the electric lock is returned to the locked position, and light rail trains receive a proceed indication. Design, construction, and operation of the interlocking plant and crossing shall comply with the requirements of Commission General Order (GO) 143-B, GO 164-C, and the Federal Railroad Administration.

MTA is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Section 21000 et seq. A Draft Environmental Impact Report (EIR) for the Vasona Corridor Light Rail Transit Project was released to the public in October 1999, beginning the formal review period. MTA and the Department of Transportation, Federal Transit Administration (FTA) prepared a Final EIR/Final Environmental Impact Statement (EIS) in March 2000 in accordance with CEQA and the National Environmental Policy Act (NEPA). The Final EIS/EIR evaluated the proposed rail transit project and several alternatives. Public scoping meetings were held on April 14-15, 1999, at which meetings, the light rail project was discussed at length with local citizens in the surrounding communities. In addition, there had been previously a period of public comment wherein local citizens were asked to write in their comments and concerns regarding impact on their properties or other pertinent matters. Comments by the public, where feasible, were incorporated into the environmental documents and considered in the preparation of the Final EIS/EIR of the Light Rail Corridor.

On May 4, 2000, a Notice of Determination (Notice) was filed with the State Secretary of Resources - Office of Planning and Research, Sacramento and the County Clerk Recorder's Office - Santa Clara County, City of San Jose. The

Notice, which is included in Appendix B, advised all interested parties that the VTA was in compliance with Section 21108 of the PR Code.

VTa has approved the proposed project as the environmentally superior alternative and further stated that:

1. The project will not have a significant effect on the environment.
2. A Final EIR was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A Statement of Overriding Considerations was not adopted for this project.
5. Findings were made pursuant to the provisions of CEQA.

A certification was made that the Final EIR with comments, responses and record of the project approval was made available to the general public at 3331 North First Street, Environmental Analysis, Building B, in the City of San Jose on May 5, 2000.

The Commission is a responsible agency for this project under CEQA (PR Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050 (b)). The specific activities which must be conducted by a responsible agency are contained in CEQA Guideline Section 15096. The Commission's Consumer Protection and Safety Division's Rail Crossings Engineering Section (RCES) and Rail Transit Safety Section (RTSS) staff have inspected the site of the proposed project. RCES and RTSS examined the need to construct the proposed crossing, as indicated in the

exhibits attached to the application, and recommend that the application be approved.

The Commission has reviewed the lead agency environmental documents. The Final EIS included an analysis of potential environmental effects, including impacts related to transportation and traffic, air quality, noise and vibration, energy, land use, socio-economics and environmental justice, vegetation and wildlife, water quality, floodplains, geology, hazardous materials, magnetic fields and interference, cultural resources, aesthetic considerations, safety and security, construction and growth-inducing impacts.

The EIS analyzed 35 potential environmental impacts in the above-specified areas. Of that number, 17 were found to have no effect, be not substantial, potentially beneficial or beneficial; 18 were found to have potentially significant or significant effects. However, mitigation measures were adopted and will be implemented as specified by the lead agency to either eliminate or substantially lessen those environmental impacts. Safety, transportation and noise are within the scope of the Commission's permitting process. In particular, we have considered the following information.

The proposed project will reduce overall vehicle-miles-traveled (VMT) and vehicle-hours-traveled (VHT) in Santa Clara County. Reducing traffic congestion will also reduce auto emissions that degrade air quality. This is a beneficial impact because a decrease in VMT and VHT reduces congestion, air pollution and energy consumption.

The lead agency's EIS did not identify any impacts from the project related to safety. One significant transportation impact was identified that will be mitigated to a less-than-significant level. This potential impact does not relate to the proposed rail-to-rail crossing.

Noise impacts were identified as exceeding FTA thresholds at various residences along the alignment as well as vibration levels, which would be mitigated to less-than-significant levels. The proposed rail-to-rail crossing is not identified as one of the locations expected to exceed the FTA thresholds on noise or vibration.

As to each of the potentially significant or significant impacts identified in the EIS within the scope of the Commission's permitting authority the Commission finds the lead agency adopted feasible mitigation measures to either eliminate or substantially lessen the impacts to less-than-significant levels.

Application 02-03-008 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 41, which relates to the construction of a railroad or street railroad across a railroad or street railroad.

In Resolution ALJ 176-3084, dated March 21, 2002 and published in the Commission Daily Calendar on March 22, 2002 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. A First Amended Application was filed on September 16, 2003 and published in the Commission Daily Calendar on September 22, 2003. Since no protests were filed and no hearings were held, this preliminary determination remains accurate. The First Amended Application was filed for the proceeding to clarify the operational procedures to be used at the proposed rail-to-rail crossing and UP's willingness to abide by them. The Commission's Consumer Protection and Safety Division recommends that this application be granted. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3084.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission Daily Calendar on March 13, 2002. There are no unresolved matters or protests; a public hearing is not necessary.

2. VTA requests authority, under Public Utilities Code Sections 1201-1205, to construct an at-grade rail-to-rail crossing. The crossing is a proposed crossing of the LRT line of the Vasona Light Rail Project, south of Auzerais Avenue across the existing UP freight line in San Jose, Santa Clara County.

3. Public convenience and necessity require the construction of the at-grade light rail crossing.

4. VTA is the lead agency for this project under CEQA, as amended, and NEPA.

5. The Commission is a responsible agency for this project and has reviewed and considered VTA's environmental documentation upon which VTA relied in adopting mitigation measures for the project.

6. VTA prepared a Final EIS/EIR in March 2000, State Clearinghouse Document #99032027, as shown in Appendix B.

7. The Final EIS/EIR was approved by U.S. Department of Transportation, FTA, pursuant to (State) Division 13, PR Code (Federal) 42 U.S.C. 4332 (2) (c) on May 15, 2000.



8. A Notice was filed on May 4, 2000, with the State Secretary of Resources - Office of Planning and Research, which stated that "the project will not have a significant effect on the environment."

9. The EIS analyzed 35 potential environmental impacts. Of that number, 18 were found to have potentially significant or significant effects. However, mitigation measures were adopted and will be implemented as specified by the lead agency to either eliminate or substantially lessen those environmental impacts.

10. VTA's environmental documents are adequate for our decision-making purposes.

11. Safety, transportation and noise are within the scope of the Commission's permitting authority.

12. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Final EIS/EIR for the Vasona Corridor Light Rail Transit Project, prepared for and approved by the FTA and the VTA.

13. The EIS /EIR did not identify any impacts from the project related to safety.

14. The Commission finds that for each potentially substantial environmental impact identified in the EIS/EIR within the scope of the Commission's permitting authority and discussed in this decision, the lead agency adopted feasible mitigation measures to eliminate or substantially lessen the impacts to less-than-significant levels.

### **Conclusions of Law**

1. There are no protests or unresolved matters; a public hearing is not necessary.

2. We adopt and require the mitigation measures identified in VTA's Final EIS/EIR for purposes of our project approval.

3. The application should be granted as set forth in the following order.

## **O R D E R**

### **IT IS ORDERED** that:

1. Santa Clara Valley Transportation Authority (VTA) is authorized to construct an at-grade rail-to-rail crossing to be identified as CPUC Crossing 82D-4.2-T by the light rail transit line of the Vasona Light Rail Project in City of San Jose, Santa Clara County.

2. Clearances shall be in accordance with General Orders (GO) 26-D, 95 and 143-B.

3. Walkways shall be in accordance with GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

4. Safety shall be provided by a manually controlled and signaled electric lock placed on the Union Pacific Railroad Company (UP) freight line a sufficient distance in advance of the at-grade rail-to-rail crossing. Operation of UP trains through the crossing shall require that, in the presence of a VTA supervisor, UP requests permission to open the electric lock from the VTA operations control center. Once permission is received and the switch is unlocked, signals affecting VTA train movement through the crossing shall display a "stop" indication, which will result in southbound VTA light rail trains being held at San Jose/Diridon Station and northbound trains being held at Race Street Station. Light rail operations past the crossings home signals shall be suspended until the

UP operations are completely clear of the crossing, the electric lock is returned to the locked position, and light rail trains receive a proceed indication. Design, construction, and operation of the interlocking plant and crossing shall comply with the requirements of Commission GO 143-B, GO 164-C, and the Federal Railroad Administration.

5. Prior to construction, VTA shall file with the Consumer Protection and Safety Division's Rail Crossings Engineering Section (RCES) final construction plans.

6. Within 30 days after completion of the work under this order, VTA shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway-Rail Grade Crossings and Separations) that the authorized work is completed.

7. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. The application is granted as set forth above.

9. Application 02-03-008 is closed.

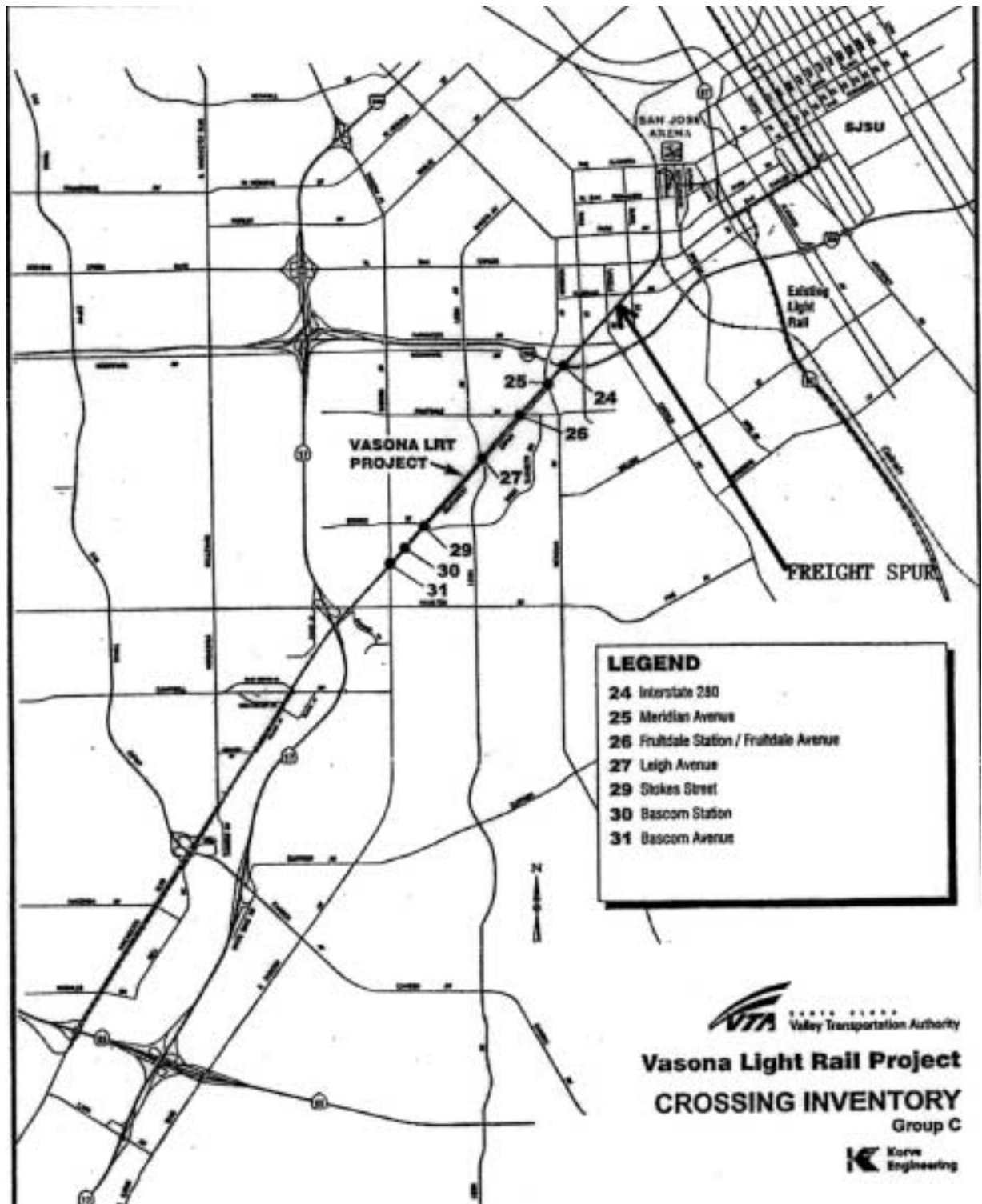
This order becomes effective 30 days from today.

Dated January 8, 2004, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners



## APPENDIX A



## APPENDIX B

<b>Notice of Determination</b>		<div style="border: 2px solid black; padding: 5px; margin: 0 auto; width: 150px;"> <div style="border: 1px solid black; padding: 2px; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="border: 1px solid black; padding: 2px; text-align: center;">MAY 8 2000</div> <div style="border: 1px solid black; padding: 2px; font-weight: bold;">STATE CLEARINGHOUSE</div> </div>
To: <u>  X  </u>	Office of Planning and Research 1400 Tenth Street, Room 121 Sacramento, CA 95814	From: Santa Clara Valley Transportation Authority 3331 North First Street, Building B San Jose, CA 95134-1906
<u>  X  </u>  <u>  X  </u>	County Clerk Recorder's Office County of Santa Clara 70 West Hedding Street, First Floor San Jose, CA 95110	
Subject: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code.		
<u>Vasara Corridor Light Rail Project</u>		
Project Title		
99032027 State Clearinghouse Number (If submitted to Clearinghouse)	<u>Julie Klingmann</u> Lead Agency Contact Person	<u>(408) 321-5789</u> Area Code/Telephone/Extension
<u>Downtown San Jose through Campbell into Los Gatos, Santa Clara County, California</u> Project Location (include county)		
Project Description: The Project extends light rail 6.8 miles from downtown San Jose through the City of Campbell to the Town of Los Gatos in Santa Clara County California. The proposed alignment is from the existing system, along West San Carlos Street to Delmas Avenue, north to San Fernando Street, then along the future street alignment of San Fernando Street. From there the alignment would enter a tunnel, under the San Jose/Diridon Railroad yard, then surface to follow the west side of the UPRR tracks south to Vasara Junction, near Highway 85, in Los Gatos. The proposed project would, ultimately, include eleven stations and five Park and Ride lots with Transit Centers.		
This is to advise that the <u>Santa Clara Valley Transportation Authority</u> has approved the above described project on <u>May 4, 2000</u> and has made the following determinations regarding the above described project: (Date)		
1. The project [ <input type="checkbox"/> will <input checked="" type="checkbox"/> will not ] have a significant effect on the environment. 2. <input checked="" type="checkbox"/> An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. <input type="checkbox"/> A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. 3. Mitigation measures [ <input checked="" type="checkbox"/> were <input type="checkbox"/> were not ] made a condition of the approval of the project. 4. A statement of Overriding Considerations [ <input type="checkbox"/> was <input checked="" type="checkbox"/> was not ] adopted for this project. 5. Findings [ <input checked="" type="checkbox"/> were <input type="checkbox"/> were not ] made pursuant to the provisions of CEQA.		
This is to certify that the final EIR with comments and responses and record of the project approval is available to the General Public at:		
<u>3331 North First Street, Environmental Analysis, Building B, San Jose, CA 95134-1906 contact: Julie Klingmann</u>		
<u>Julie Klingmann, VTA</u> Signature	<u>May 5, 2000</u> Date	<u>Environmental Analyst</u> Title
Date received for filing of OPR:		

## APPENDIX B

FTA-CA-EIS-99-xx-F

State Clearinghouse # 99032027

Vasona Corridor Light Rail Transit Project  
Santa Clara County, California



**FINAL**  
**ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL IMPACT REPORT**

*Pursuant to (State) Division 13, Public Resources Code  
(Federal) 42 U.S.C. 4332 (2) (c)*

U.S. DEPARTMENT OF TRANSPORTATION  
Federal Transit Administration

and

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

	<b>MAR 15 2000</b>	
Federal Transit Administration	Date	Santa Clara Valley Transportation Authority

The following persons may be contacted for additional information concerning this document.

Julie Klingmann  
Environmental Analysis Department  
Santa Clara Valley Transportation Authority  
3331 N. First Street, Building B  
San Jose, CA 95133-1906  
(408) 321-5789

Jerome Wiggins  
Region 9  
Federal Transit Administration  
201 Mission Street - Room 2210  
San Francisco, CA 94105-1926  
(415) 744-3115

**ABSTRACT:** The Santa Clara Valley Transportation Authority (VTA) [also known as the Santa Clara County Transit District (SCCTD)] proposes to construct a 10.9-kilometer (6.8-mile) extension of its existing light rail transit (LRT) system into the Vasona Corridor of Santa Clara County, California. The extension will pass through portions of the Cities of San Jose, Campbell, and Los Gatos. The project will provide a high-quality public transportation facility which will directly connect to other existing commuter and intercity rail lines and bus routes. This report discloses the environmental impacts of this proposed action which include increases in noise and vibration, relocation of businesses and residences, a loss of riparian habitat, and a visual/aesthetic impacts.